ORDINANCE No. 2014 - 03

AN ORDINANCE OF THE COCONINO COUNTY, ARIZONA BOARD OF SUPERVISORS REGULATING PORTABLE COMMUNICATION DEVICES AND TEXTING WHILE OPERATING A MOTOR VEHICLE

WHEREAS, the Coconino County Board of Supervisors is authorized in A.R.S. 11-251(17) to adopt provisions necessary to preserve the health of the county, and in A.R.S. 11-251 (31) to make and enforce all local, police, sanitary and other regulations not in conflict with the general laws;

WHEREAS, A.R.S 28-626(B) and 11-251.05 authorize the adoption of additional traffic regulations that are not in conflict with other state traffic or transportation regulations;

WHEREAS, texting while driving a motor vehicle and the use of portable communication devices has increased in recent years;

WHEREAS, the use of portable communication devices and texting while driving a motor vehicle have contributed to the increase of injuries, deaths, property damage, health care costs and auto insurance rates;

WHEREAS, motorists who operate portable communication devices and/or text while driving a motor vehicle are statistically more likely to become involved in a traffic accident;

WHEREAS, it is the desire of the Coconino County Board of Supervisors to promote and encourage healthy and safe behaviors for all by regulating certain traffic behaviors.

THEREFORE, be it resolved, that the Coconino County Board of Supervisors adopt this Ordinance to be effective in the unincorporated and incorporated areas of Coconino County, excluding sovereign tribal nations.

SECTION I (1): DEFINITIONS

HANDS-FREE MOBILE DEVICE" shall mean:
- A device that has an internal feature or function, or that is equipped with an attachment or addition, whether or not permanently part of such device, which is not held by the driver during motor vehicle use. The device must not obstruct the driver's view of the front or sides of the motor vehicle or interfere with the safety or operating equipment of the motor vehicle.
- A device that is programmed before a person begins to drive or operate a motor vehicle such as a Global Positioning Device (GPS).

"PORTABLE COMMUNICATIONS DEVICE" shall mean any handheld mobile telephone, personal digital assistant (PDA), handheld device with mobile data access, laptop computer, pager, broadband personal communications device, two-way messaging device, electronic game, or portable computing device.

"MOTOR VEHICLE", "DRIVE" and "DRIVER" have the same meaning as those terms are defined in Title 28, Chapter 1, Arizona Revised Statutes, Transportation.

"USE" means:
- Holding a portable communications device and performing the Illegal Activities stated in Section II (2).

SECTION II (2): ILLEGAL ACTIVITIES

Illegal motor vehicle driver activities include:

A person shall not drive a motor vehicle while using a portable communications device to engage in a call unless that device is configured to allow hand- free listening and talking, and is used exclusively in that manner while driving. Texting and typing while operating a motor vehicle are banned.

SECTION III (3): EXEMPTIONS
This Ordinance does not apply to any of the following:
- When the driver uses a hands-free mobile device.
- When the purpose of the call is to communicate an emergency to a police or fire department, a hospital or physician's office, or an ambulance corps.
- When operating an authorized law enforcement or emergency vehicle in the performance of official duties.
- When a person who holds a valid amateur radio operator license issued or any license issued by the Federal Communications Commission and is operating an amateur radio under the direction of authorized first responders in the event of an emergency.
- When a person is driving a motor vehicle on private property.
- When a driver has pulled off of the traveled portion of the roadway in a safe and legal location and placed the vehicle in park in order to operate a handheld portable communications device.

SECTION IV (4): ENFORCEMENT AND PENALTIES

Enforcement shall be the responsibility of city, county and state of Arizona law enforcement representatives.

A law enforcement officer may stop a motor vehicle or motor driven cycle if the officer has reasonable cause to believe a violation of this Ordinance is occurring.

A violation of this article is a civil traffic violation.

A person found to be in violation of this Ordinance and not involved in a motor vehicle crash is subject to a civil penalty of $100 dollars plus any other penalty assessment authorized by law.

A person found to be in violation of this Ordinance and involved in a motor vehicle crash is subject to a civil penalty of $250 dollars plus any other penalty assessments authorized by law.

Violations of this Ordinance shall be administered pursuant to the procedures for civil traffic violations as set out in A.R.S. 28-1591 through 28-1601.

SECTION V (5): EFFECTIVE DATE

This Ordinance is effective 30 days after adoption by the Coconino County Board of Supervisors.

SECTION VI (6): WARNING PERIOD

For the purpose of informing and educating persons who operate motor vehicles and motor driven cycles any law enforcement officer may only issue verbal warnings to persons who would be violating this Coconino County Ordinance for a six (6) month period after the Ordinance is adopted.

SECTION VII (7): INTERPRETATION AND SEVERABILITY

In the interpretation of this Ordinance, the singular may be read as the plural, the masculine gender as the feminine or neuter, and the present tense as the past or future, where context so dictates.

In the event any particular clause or section of this Ordinance should be declared invalid or unconstitutional by any court of competent jurisdiction, the remaining portions shall remain in full force and effect. Toward that end, the provisions of these regulations are declared to be severable.

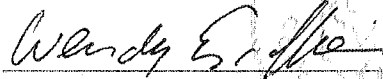ORDAINED BY ACTION OF THE COCONINO COUNTY BOARD OF SUPERVISORS on this _22_ day of _April_ , 2014.

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Matt Ryan, Chairman
Board of Supervisors

Approved as to form:

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Deputy County Attorney

ATTEST:

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Wendy Escoffier, Clerk of the Board